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OFFICE OF PETITIONS

In re Application of :
Nikos Panayotatos :
Application No. 09/942,463 : ON PETITION
Filed: August 29, 2001 :
Attorney Docket No. NP/1 CIP :
DIV

This is a decision on the petition under 37 CFR 1.137(b), filed August 1, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 17, 2005, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 18, 2005. See MPEP 1215.04. A Notice of Abandonment was mailed on June 9, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of \$750; and (3) an adequate statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/497,684, filed August 1, 2006.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See

In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,080 extension of time fee submitted with the petition on August 1, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.



Frances Hicks
Petitions Examiner
Office of Petitions